HON'BLE SHRI G.S. SINGHVI, THE CHIEF JUSTICE

AND

HON'BLE SHRI JUSTICE C.V. NAGARJUNA REDDY

Writ Petition No.22354 of 2006

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Between:

Koyalkar Krishna

……Petitioner

And

The Commissioner,
Kukatpally Municipality,
Ranga Reddy District
and another

……Respondents

:: ORDER ::

Counsel for the Petitioner : Shri P.Srinivas

October 30, 2006

Per G.S. SINGHVI, CJ

This petition filed by Shri Koyalkar Krishna, resident of 5-5-35/161, Sri Sri Nagar and Prashanthi Nagar, Moosapet, Kukatpally, Hyderabad for issue of a direction to Commissioner, Kukatpally Municipality to decide his representation and take necessary action for stopping the alleged illegal construction being made by respondent No.2 - Shri Mohd. Sajjad on the property bearing M.No.5-35/161 (old No.6-39/1) measuring 400 square yards can appropriately be termed as a vexatious piece of litigation, which deserves to be dismissed at the threshold.

The petitioner claims to be the owner of the disputed property. In March, 2006, he filed a suit for permanent injunction against respondent No.2 seeking to restrain him from interfering with his peaceful possession and enjoyment of the property in question. On 13-3-2006, Principal Junior Civil Judge, Ranga Reddy passed an order of status quo and fixed the case for filing written statement on 29-3-2006. It is not borne out from the record of the case whether or not the order of status quo was extended from 29-3-2006, but this much is evident that after having opened the front of civil litigation, the petitioner also filed a criminal complaint against respondent No.2 alleging that he has illegally encroached his land and now he has invoked the jurisdiction of this Court under Article 226 of the Constitution of India for ordaining respondent No.1 to take cognizance of the so-called illegal construction and restrain respondent No.2 from continuing with his construction activity.

We have heard Shri P.Srinivas, learned advocate for the petitioner and perused the record. In our opinion, the writ petition is liable to be dismissed on the short ground that the petitioner has

already availed alternative remedies by filing suit for permanent injunction and criminal complaint against respondent No.2 and there is no legal basis or justification for entertaining the writ petition during the pendency of the civil suit and the criminal proceedings instituted by him.

It is also apposite to mention that in the written statement filed by him in I.A.No.758 of 2006 (O.S.No.485 of 2006), respondent No.2 has not only denied the petitioner's assertion that he is the absolute owner of land bearing Survey Number 254 measuring Ac.2-07 gts. in Moosapet Village, but has also alleged that in the garb of the order of status quo passed by the Court of Principal Junior Civil Judge, Ranga Reddy, the petitioner is trying to occupy other lands. Respondent No.2 has also alleged that the premises in dispute belonged to his relatives viz., Ahmed Ali Khan and another. According to respondent No.2, suit filed by one T.Narsing Rao claiming to be the owner of the property was dismissed by the trial Court. Thereafter, Smt.Rukmini Bai and another filed suit O.S.No.35 of 1986, which was decreed on 15-4-1993.

From what we have noted above, it is evident that seriously disputed questions of fact are required to be adjudicated as a condition precedent to the entertaining of the petitioner's prayer and as he has already availed the alternative remedy of suit, we do not find any justification to entertain the writ petition, which is hereby dismissed.

As a sequel to dismissal of the writ petition, WPMP No.28391 of 2006 filed by the petitioner for interim relief is also dismissed.

G.S.SINGHVI, CJ

C.V.NAGARJUNA REDDY, J

October 30, 2006
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